Page 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Case No.: 1:15-cv-05813-AKH
--x
VICTOR CALLENDER,
Plaintiff,
- against -
FORSTER & GARBUS, LLP and
DISCOVER BANK,

Defendants.

--x

477 Madison Avenue
New York, New York
October 25, 2016
12:31 p.m.

DEPOSITION of VICTOR CALLENDER, the Plaintiff in the above-entitled action, held at the aforementioned time and place, taken before Ashley Shugar, a Shorthand Reporter and Notary Public of the State of New York, pursuant to the Federal Rules of Civil Procedure, Notice and stipulations between Counsel.

* * *

Page 2

A P P E A R A N C E S:

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FILE: 12607-2

* * *

Page 3

S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED, by and among counsel for the respective parties hereto, that the filing, sealing and certification of the within deposition shall be and the same are hereby waived;

IT IS FURTHER STIPULATED AND AGREED that all objections, except as to form of the question, shall be reserved to the time of the trial;

IT IS FURTHER STIPULATED AND AGREED that the within deposition may be signed before any Notary Public with the same force and effect as if signed and sworn to before the Court.

* * *

Page 4

V. CALLENDER

V I C T O R C A L L E N D E R, the Witness herein, having first been duly sworn by the Notary Public, was examined and testified as follows:

(Defendant's Exhibit A, Notice to Take Oral Deposition, was marked for identification.)

EXAMINATION BY MS. LASTORINO:

Q. Hello, Mr. Callender. My name is Carol Lastorino. I represent the Defendant, Forster & Garbus, in this case.

I'm going to ask you some questions. I want you to give me a full response, not a nod or a shake of the head. This way, the court reporter can take down your response.

MR. KESHAVARZ: You mean oral answer.

BY MS. LASTORINO:

Q. If you don't understand my question, ask me and I'll rephrase it.

Before we get started, I just marked as Defendant's Exhibit A the Notice

Page 5

V. CALLENDER

to Take Oral Deposition, which is dated and was served on September 12th, 2016, which was sent to your attorney and provided that your deposition was going to be taken at the offices of Rivkin Radler, 477 Madison Avenue, 20th Floor, New York, New York, on October 25th, 2016 at 11:00 a.m. It is now 12:30 p.m., and I just want the record to reflect that.

And I had a prior e-mail communication back when this was served with Ahmad Keshavarz, plaintiff's attorney, that there is a presumption the deposition takes place in the county where the action is commenced. The action is commenced in the Southern District, which is New York County, not Kings County. But we are starting this deposition an hour and a half late.

MR. KESHAVARZ: Okay. Then let me get my statement on the record.

I've been practicing New York law for 16 years. This is the first time in my entire career where we've

Page 6

V. CALLENDER

had deposition of a party in a location other than that party's attorney. It's common courtesy for most attorneys. Apparently, it's not common courtesy here. When there was a Notice of Deposition at Rivkin Radler, I promptly notified opposing counsel that I would produce my client at my office as common courtesy has been.

I would also note that I attempted to take the deposition of the corporate representative of Forster & Garbus at the Manhattan office of Rivkin & Radler. Opposing counsel refused to take the deposition, requiring me to drive an hour and a half to Long Island to take the deposition of the corporate representative.

I would also note that I had a doctor's appointment this afternoon because I'm ill, and I had to cancel it because I had to haul all the way

Page 7

V. CALLENDER

out here, which I don't think is courteous.

MS. LASTORINO: And let --

MR. KESHAVARZ: If you have -- if you have a --

MS. LASTORINO: No. Let the record further reflect, since you wanted to put something on the record, that when you told me that you did not want the deposition here, I explained to you that it was going to take place here based on the presumption. Your number of years practicing, I can't tell you why you don't know what the general rules and presumptions, including the presumption that the 30(b)(6) witness is produced for deposition where he resides or conducts business.

So, that being said.

BY MS. LASTORINO:

Q. Mr. Callender, tell me everything you did to get ready for this deposition today?

Page 8

V. CALLENDER

MR. KESHAVARZ: Objection to the form of the question.

You may answer.

BY MS. LASTORINO:

Q. You could answer.

THE WITNESS: What do --

MR. KESHAVARZ: You can answer.

BY MS. LASTORINO:

Q. You can't -- you can't ask your attorney a question.

MR. KESHAVARZ: Just -- just listen to --

BY MS. LASTORINO:

Q. When I ask you a question, just so you know, and a question is pending, you can't ask your attorney or speak to your attorney to help him -- have him help you testify.

So tell me everything that you did to prepare for this deposition today.

A. Just met -- mentally just went over how we got to this position. How we -- how we got to this position.

Q. Did you review any documents?

Page 9

V. CALLENDER

A. Whatever documents I had in my possession.

Q. And what -- what documents did you have in your possession that you reviewed?

A. Letters from Forster & Garbus, the letter that I had when I went to court and I had, you know, the dismiss -- they dismissed the cases. All those letters, I just went over the whole file.

Q. And what letters from Forster & Garbus did you review?

A. The letters I sent to -- the letters that I received from Forster & Garbus back in 2012 and the letter I sent to the State wanting to inquire about -- wanted to inquire about why I was getting the letters; that's what -- that's what I was reviewing.

Q. When you say "the letter to the State," what do you mean by that, the State?

A. What's it called? Well, when I started getting the letters, I had to

Page 10

V. CALLENDER

write -- I wrote the State because I wanted to find out what it was.

Q. Are you talking about the New York City Department of Consumer Affairs?

A. Right. Yeah, that's the --

Q. Okay.

A. -- that's them, yeah. So -- because I -- I went over that stuff.

Q. And the letters --

You said you received letters from Forster & Garbus?

A. Right.

Q. About how many letters did you receive from --

A. Five.

Q. I'm sorry?

A. Five.

Q. About five letters?

A. Uh-huh.

Q. Did you meet with your attorney to prepare for deposition?

MR. KESHAVARZ: She's not asking you what was said.

Page 11

V. CALLENDER

BY MS. LASTORINO:

Q. No, I'm not asking you what was said. I'm just asking you did you meet with --

A. Yes.

Q. -- your attorney?

A. Yes.

Q. And when did you meet with your attorney?

A. This morning, I got to the office around 10 -- 10 -- 10 o'clock.

Q. Did you meet --

A. 10:45 -- 10 o'clock.

Q. Did you meet with him prior to this morning to prepare for deposition?

A. No.

Q. Was --

Who was present in the meeting this morning with your attorney?

A. Just my attorney.

Q. Just the two of you?

A. Uh-huh.

Q. Mr. Callender, where do you currently reside?

Page 12

V. CALLENDER

A. I live in the Bronx.

Q. Can you give me the specific address?

A. 765 East 225th Street.

Q. And that's an apartment?

A. Apartment, yeah, 2B.

Q. Apartment 2?

A. 2B.

Q. How long have you lived at that address?

A. I've been living there now a year.

Q. So you have been there since November of 2015?

A. 2015? Yeah. Yes.

Q. So no longer than that?

A. No longer than that.

Q. And where did you live prior to that address?

A. 986 Leggett Avenue.

Q. I'm sorry?

A. 986 Leggett Avenue.

Q. And that's in the Bronx?

A. That's in the Bronx.

Page 13

V. CALLENDER

Q. And when did you reside there?

A. 2014 of March.

Q. You started March of 2014?

A. Yeah.

Q. Until when?

A. Until August -- September 2015.

Q. And then where did you live in between September to November of 2015?

A. I was hanging out with my friends. I was living at a friend's.

Q. You were living at your friend's house?

A. Uh-huh.

Q. And where was that?

A. Do I have to answer that question?

MR. KESHAVARZ: Yeah.

THE WITNESS: It's in the Bronx.

BY MS. LASTORINO:

Q. Do you know the address?

A. No, I don't know the address. I just know how to get there.

Q. Prior to the Leggett Avenue

address, where did you live before that?
A. 37 -- 379 West 127th Street.
Q. Apartment?
A. 31, I think. I'm not sure.
Q. In the Bronx?
A. That's in Manhattan. 10027.
Q. And what time frame --
What dates did you live there?
A. I can't remember. I know I moved in there 2010 of October. That's what I know. I know I moved in there at that time.
Q. And how long were you there for?
A. That, I don't know off the top of my head. I have to see a calendar.
Q. And where did you live before that?
A. 408 West 130th Street, Apartment 12.
Q. And what dates did you live at that address?
A. I lived there from '99 -- '99 of September to 2010, October.

Q. When you moved from one address to the next, did you file anything with the United States Postal Service for a change of address?
A. Yeah.
Q. Did you do -- did you submit --
Did you do that online or submit a paper to the post office?
A. I submitted a paper. I can't remember if I did it for all of them, but that's something that I do.
Q. But that's generally your practice --
A. Right.
Q. -- when you move from one address to another?
A. Right.
Q. Are you currently married?
A. I'm married, but we're separated.
Q. What is your -- what is her --
What is your wife's name?
A. Michelle Callender.
Q. When did you marry?

A. In 2003.
Q. And when did you separate?
A. In 2015.
Q. A month?
A. What month was that? I think it was July.
Q. Do you have children?
A. Yes, I do.
Q. How many?
A. Three.
Q. And what are their names and ages?
A. Mykal.
Q. I'm sorry?
A. Mykal. Mykal, M-Y-K-A-L. He's 10.
Isabelle is 8.
And Naima is 5.
Q. Do they reside with you?
A. No.
Q. They reside with Michelle?
A. Yeah.
Q. And where does she reside?
A. She's also in the Bronx. I

don't have the address on hand right now. It's Fowler Avenue in the Bronx.
Q. And have your three children been living with Michelle in the Bronx at Fowler Avenue in the Bronx since you separated in July 2015?
A. Yes.
Q. Who is Carol Callender?
A. That's my mom.
Q. Are you currently employed?
A. Yes.
Q. Where do you work?
A. At Blink -- Blink Fitness.
Q. And when did you start working at Blink Fitness?
A. I started last week.
Q. And what do you do there?
A. Train. Trainer.
Q. You're a trainer?
A. (Nods head.)
Q. Where did you work prior to Blink Fitness?
A. What I did? I did my own thing outside. I was -- I was doing the same

thing, training, but I was doing it outdoors. Running boot camps.
Q. Who were you working for?
A. I worked for myself.
Q. How long did you do that for?
A. I do it all summer.
Q. So this past summer, that's what --
A. That's what I did.
Q. And what did you do before that?
A. I worked at Dollar Tree.
Q. When did you start working at Dollar Tree?
A. 2015. No, no, no. 2014 -- sorry -- of like November.
Q. November 2014?
A. Yeah.
Q. And when did your employment there terminate?
A. It didn't terminate until March of this year. But I got promoted to manager after working there and I didn't like that position.

Q. You didn't like being promoted?
A. I didn't like the position. I didn't like the amount of work I was being given for the amount of staff that I had.
Q. I'm sorry, the amount of?
A. Staff that I had.
Q. Staff?
A. Yes.
Q. When you first started at Dollar Tree in November of 2014, what was your title?
A. I was working stock. I was working stock.
Q. And where -- which location? Which Dollar Tree location?
A. Pelham. Pelham Manor; that's in the Bronx.
Q. Who was your supervisor?
A. His name was Khan. He's no longer there.
Q. And when you first started working at Dollar Tree, was it a part-time or a full-time job?
A. It was part-time.

Q. How many hours a week did you work?
A. Like 25 -- 25 hours.
Q. And how much -- what was your salary?
A. I don't know. I got to -- what was that?
MR. KESHAVARZ: You don't have to look at a calendar.
THE WITNESS: No, I have to do the math.
Like, I don't know it off the top of my head.
MR. KESHAVARZ: So you just listen to the question. If you know the answer, then say. If you don't know, then say.
THE WITNESS: No, I don't know. I don't know.
BY MS. LASTORINO:
Q. You don't know what your salary was?
A. No, not off the top of my head. I would have to calculate that.

Q. Was it 10 -- more than $10 an hour?
A. No, it was less than $10 an hour.
Q. Less than 10?
A. Yeah.
Q. Was it less than $8 an hour?
A. No, it was more than $8.
Q. Did there come a point in time when you were working at Dollar Tree that you became a full-time employee?
A. No, it doesn't work like that in that -- in that business. No.
Q. So you were --
A. It doesn't work like that.
Q. How does it work?
A. They hire people for part-time and keep them part-time so they don't have to pay benefits. That's how it works. The only people that gets benefits is managers. I call it slave labor. That's what I call that.
Q. So when you were promoted to manager -- I'm sorry.

What -- what date was that?
Did you give me a date for that?
A. The promotion?
Q. Yeah.
When did the promotion take place?
A. The end of 2015. November or December.
Q. And when you got the promotion, did you -- did your salary increase?
A. Yeah.
Q. And what'd it increase to?
What was your --
A. It was 14.
Q. $14 an hour?
A. $14 an hour.
Q. And did you also work the same 25 hours per week?
A. No. I worked more than that. I worked maybe 35 to 40 hours.
Q. And when you were promoted to manager, did you then receive benefits --
A. No.
Q. -- from Dollar Tree?

A. No. You have to go through like another process.
Q. And what's that process?
A. A trial -- what was that? Trial period or something. Yeah.
Q. And you didn't make it through the trial period?
A. It's not that I didn't make it; I didn't want to make it through the trial period. I was manager who was given responsibilities to do like work for like ten other people. That's crazy.
Q. How does it work at Dollar Tree? Does -- does one store --
The store you were working at, how many managers does one store have?
A. They have four managers in the store.
Q. So there were three other managers when you --
A. Right.
Q. -- were promoted?
A. Yeah.
And so I was doing my work and

being a cashier also, taking care of the cash, doing cash deposits, doing everything. Making orders, I was making orders. I would show up at night sometimes to take in the trucks, then go home to sleep, then wake back up and then go back again to work. Slave labor. It's too much work for one man.
Q. Where did you work before Dollar Tree?
A. Unified -- UNFI. It's united -- United Food Distribution Company.
Q. And where is that located?
A. It's in New Hampshire.
Q. And where did you work when you worked for them?
A. I worked in the city. I worked in the city.
Q. So they were primarily located in New Hampshire, but they had a city --
A. Yeah.
Q. -- location?
A. Yeah.
Q. What did you do there?

A. The trucks came from New Hampshire to the city so we delivered food products to stores.
Q. Did you drive a truck?
A. No, I didn't -- I didn't drive the truck.
Q. So what was your specific job description?
A. Delivery. Delivery. We were doing delivery. Delivery.
Q. So somebody else drove the truck and then --
A. Yeah.
Q. -- you --
A. We delivered.
Q. You delivered?
A. We did, the truck driver and us.
Q. Oh, I see.
A. Yeah.
Q. And when did you start your employment at United Food Distribution?
Distribution or distributor?
I'll just call it United Food.

A. Yeah, just call it United. UNF --
Q. When did you start working at United Food?
A. I don't know the date right off the top of my head. I gotta go back years.
Q. Well, how many years did you work there?
A. Maybe I worked there for seven years. Yeah.
If I had known I would answer these question, I'd have brought all that stuff with me. I mean dates, I don't know all the dates.
Q. So you were there for seven years.
And what -- what was your salary?
A. I was getting paid total $16 an hour.
Q. And was that a part-time job or full-time?
A. It was full-time.
Q. How many hours a week?

A. Like 40 hours.
Q. And do you recall an approximate date as to when you stopped working there?
A. Yeah, it's in 2014, though.
Q. Do you remember the month?
A. I think it's September.
Q. Did you leave voluntarily?
A. I didn't leave. They just -- they just went through changes. The company went through changes, and they just -- they just went through changes. They -- they wanted to stop bringing -- sending the trucks down -- down to the city. It was costing too much money and all that kind of stuff, so they just did cutbacks. So they just cut the lower half out, which is -- which was us, so --
Q. So you were laid off?
A. Yeah, if you want to call it that.
Q. And then the job after United Food was Dollar Tree?
A. Right.

Q. About how close in time did you -- were you terminated from United Food and then started the Dollar Tree job?
MR. KESHAVARZ: Objection to the form of the question.
BY MS. LASTORINO:
Q. Do you understand the question?
A. No, I don't.
Q. When you were laid off from United Food --
A. Uh-huh.
Q. -- and then you -- your next job was at Dollar Tree?
A. Right.
Q. How long were you --
Were you unemployed in between or did you start working --
A. Yeah, I was --
Q. -- right away?
A. -- unemployed. I was unemployed. But I didn't -- I didn't sign up for unemployment or anything like that because I don't believe in that stuff. I believe in working for my money. So . . .

Q. How long were you unemployed?
A. A couple of months.
When did I get the job at Dollar Tree? In October?
Again, I -- 2014 -- I mean 2000 -- 2014, that's when I got laid off at United. Maybe September, I don't know exactly the month, but it's in that year. I think -- I'm thinking it's like July or September, I'm not sure. But I know I got hired by Dollar Tree around October of that year, 2014.
Q. You could have collected unemployment, if you wanted?
A. Like I said, me, I don't believe -- that's not something that I -- I like to work. So I mean, to sit down and do -- what is that? Like I don't even -- in my -- I'm from Trinidad. I'm from the Caribbean. I'm a worker, so I don't -- I don't understand what that is. I mean, I don't -- I just like to work.
Q. So you never collected unemployment --

V. CALLENDER

A. No, I never --
Q. -- in your life?
A. No, I didn't. I never did.
Q. How did you feel when you lost your job with United Food?
A. How did I feel? I -- how did I feel at the time?
Q. Yeah, at the time.
A. Well, I have to find another job, that's how I felt at the time. I have to find work.
Q. Were you stressed at losing your job at United Food?
A. No. What I was stressed about -- I'll tell you what I was stressed about, I was stressed because I -- a couple of months before, I paid a broker like $2,000 to get this apartment and then I had to do the broker fee plus the month rent plus the security, and then I lost my job. All right?
So then my stress came because I just moved into this place and I just went into my savings, used it up for this

V. CALLENDER

space and then I lost the job. So now my focus is I need to find work so I can continue paying my bills and feeding my family.
That was the focus. So I was stressed. I'm going to get stressed because if I don't have money, I might end up on the street, right?
So I'm stressed out about that.
Q. Now, during the time that you got married in . . .
A. 2003.
Q. Thank you.
2003, did Michelle work at all?
A. No, my wife never worked. She -- she didn't work when she was with me.
Q. Did she ever -- did she work at all during the time you were married --
A. When I met --
Q. -- before you were separated?
A. When I met her, she had a -- she had a little job. But when we met, she -- she stopped working.

V. CALLENDER

Q. What about up until the time you separated, did she ever work?
A. When she had to. She had to go and get a job.
Q. And when did -- when did that --
When did she go get a job?
A. She went to find -- she went to work, I think in like, I don't know, December or November that year.
Q. And just of what year are we talking about?
A. 2014.
Q. Okay. And where did she go work when she found that job?
A. She went to work at Wollman Rink.
Q. Where?
A. Wollman Rink. Wollman Rink, the ice skating facility. I can't remember what she was doing. Wollman Rink. I think she was -- well, you need -- she was the manager or something. I don't know.
Q. And was a part-time job or a

V. CALLENDER

full-time job?
A. At the time -- at the time, I'm not sure.
Q. Now, when she got that job, did your childcare situation change at all?
A. It helped a little bit.
Q. How so?
A. Because she was working and I was -- I was out of work, right, but she was working.
Q. So it helped for the expenses?
A. Right, it helped a little bit.
Q. Mr. Callender, have you ever been deposed before?
A. I don't understand the question.
Q. Well, today you're at a deposition where there's a court reporter, I'm asking you questions.
A. Uh-huh.
Q. So a situation like this.
Have you ever had a situation like this where you were deposed?
A. Never in my life.

V. CALLENDER

Q. Did you ever testify in court before?
A. Yes.
Q. And when was that?
A. That was in -- in 2012. That's when I had to go see about the case. When I filed a motion -- a motion to vacate, I had a court order so I had to go for the court for that.
Q. And when you're talking about "the case," are you talking about the Discover Bank matter?
A. Yes.
Q. Is that the only time you testified in court?
A. No. I had two other judgments that I had to testify.
Q. And what -- let's take one at a time.
What was -- what was one judgment that you had to testify?
A. I think it was Citibank. I can't remember the other name -- the other one.

V. CALLENDER

Q. And when was that?
A. In the same -- in the same year.
Q. So that was in 2012 --
A. 2012.
Q. -- as well?
A. In the same year, around the same time around. I can't remember the months, but I know it was between January and -- and August all that stuff went down.
Q. And was there a judgment against you in Citibank?
A. Yes, there was a judgment against me, that's why I had to go to court. There was two -- there was two judgments -- no, three judgments, the Discover, Citibank, and the other one I can't remember.
Q. You can't remember the third one?
A. I think it was Chase. I don't know if it was Chase. I'm not sure.
Because they have different names. Like they have -- I know it was AS-

V. CALLENDER

-- A- -- AIS and then there was -- I don't know if that's the same as Mel Harris. I don't know, so I'd have to look at the -- the documents to --
Q. Well, I'm -- I'm going to get back to the Discover Bank one, but let's just take these other ones --
A. Yeah.
Q. -- one at a time.
The Citibank one --
A. Uh-huh.
Q. -- when did you learn that you had a judgment -- that Citibank had a judgment against you?
A. The same day I went -- the same day I found out about the judgment against me for -- for this case --
Q. So did you --
A. -- the Discover.
Q. So did you find out that there were three judgments against you the same day?
A. Yeah.
Q. And tell me how you came to

V. CALLENDER

know that.
A. Well, I -- when I pulled a credit report.
Q. And when did you do that credit report, do you remember?
A. I can't remember the exact -- that was in 2012. I remember my birthday in 2012, but I can't remember exactly the day when I pulled that.
Q. And what was --
A. I know when I -- I pulled it, and then I went to the courts to ask questions and they told me that I needed to file a motion to vacate, something like that.
Q. What was the reason that you obtained a credit report in 2012?
A. What was the reason? I don't know. I was going -- I was going -- I went to a financial seminar or something like that and they said that's one of the things I needed to do, so I went and pulled the credit report, you know.
Q. Was there anything else on the

V. CALLENDER

credit report other than the three judgments?
A. That's what I can remember.
Q. So were there any other liens?
A. The only thing that stood out to me was those judgments. That's the things that stood out to me.
And when I took it to the lawyers, they said that's important so that's -- that's what I was focusing on. I had to focus on those.
Q. When did you show that to a lawyer?
MR. KESHAVARZ: She's not asking you what was said.
MS. LASTORINO: I said "when."
THE WITNESS: Yeah, yeah, yeah. It's the same year. It's 2012. I can't remember the exact date or the month.
BY MS. LASTORINO:
Q. So you consulted with a lawyer --
A. Yeah.

V. CALLENDER

Q. -- in 2012?
A. Yeah, the ones that -- you go to the courthouse and it's like free, you can go and ask questions.
Q. And do you remember what month that was in 2012?
A. No, I don't remember the month. I can't remember the month.
Q. Was it before you testified in court?
A. Yeah, it was before.
Q. And do you remember the name of the attorney that --
A. No.
Q. -- you consulted with?
A. Uh-uh.
Q. Did they assist you with preparing any paperwork that you had to submit to court, these attorneys?
A. What do you mean assist?
Q. Did they help you -- okay. Let --
A. What do you mean, like they helped me write the information down? What

V. CALLENDER

do you mean?
Q. Well, did you have to --
Before you testified in court, did you have to fill anything out? Any kind of paperwork?
A. I had to get -- I got legal advice and they told me what I needed to do; I needed to file a motion to vacate.
Q. And the attorneys told you this?
A. Yes, that's what they told me. At the time I didn't know what that meant, I mean, until I asked questions.
Q. And did you obtain the forms that you had to fill out or did they give them to you?
A. They had -- it was a courtroom so I had to go get them downstairs. It was a court building, yeah.
Q. And then you went over those forms with your -- with those --
A. With my lawyer.
Q. -- lawyers?
A. Yeah.

V. CALLENDER

Q. And was that the procedure on all three of these judgments?
A. Yes.
Q. Do you know the amount of the Citibank judgment?
A. No, not off the top of my head.
Q. Was it more than $10,000?
A. I said I don't know. I don't know off the top of my head.
Q. So you don't know even an approximate amount?
A. No, because it was -- that -- all that stuff happened like in 2012. That's like the last time I looked at that. I can't remember -- I can't remember that.
Q. So after you filled out the paperwork, what happened next with the Citibank case?
A. What happened after I filled out the paperwork in the courthouse?
Q. Right.
A. What happened next? I had to go and mail it. They told me what I needed to do. I had to go mail the information

V. CALLENDER

out, so I mailed it out. Then I got a little card in the mail telling me I needed to show up in court, so I went to court.
I got -- you know, for each of them, they sent me a court appearance, so I had to go all three of them. Not on the same day, but I appeared to all three of them.
Q. Do you remember who you mailed the information to?
A. Whatever information -- I don't remember the address. Whatever -- there's an address that's on the paperwork and that's the -- the people I mailed it -- mailed it to, whoever showed up on the paperwork. It came in with the paperwork, but I was just following procedure. Like the paper, it gives like the address and you just transfer the information onto the paper.
Q. Now, with respect to the -- it was Discover, Citibank, and then you said Chase?
A. Yeah, but I'm -- yeah, yeah. I think it's Chase, but I'm not sure.

V. CALLENDER

Q. And do you -- do you know what that judgment amount was?
A. No, I don't know. Off the top of my head, I don't know.
Q. So what happened with the judgment in Citibank? Did you get that vacated?
A. I don't know. I know one of them got -- I know one of them -- I had to pay for one. And one of them -- and the other one, they didn't -- they never showed up so it got vacated.
Q. So -- so one you -- the judgment -- in one of the cases, the judgment that was against you went away --
A. Yeah.
Q. -- so to speak?
A. Yeah, one of them went away, because the -- the defendant never showed up.
Q. And in the other one -- what happened in the other one?
A. The other one I had to pay. Came to a settlement.

V. CALLENDER

Q. And did you have an attorney representing you in connection with the settlement?
A. No.
Q. And what did you agree to pay on that?
A. 1500.
Q. That one payment in full?
A. One payment in full, 1500.
Q. Are you familiar with printouts from the court, WebCivil Local or something?
A. Right, right, that's where I went.
Q. And did you print something out from that?
A. Right, that's where I went. And that's the first step. No, that was the second step.
MS. LASTORINO: Can you mark this.
(Defendant's Exhibit B, WebCivil Local Case Search Results, Bates stamped Callender 17, was

V. CALLENDER

marked for identification.)
BY MS. LASTORINO:
Q. Mr. Callender, I want you to take a look at what's been marked as Defendant's Exhibit B.
MR. KESHAVARZ: Do you have an extra copy for counsel?
MS. LASTORINO: I don't.
THE WITNESS: (Document review.)
MR. KESHAVARZ: Wait a minute. There are two different documents here, Callender 17 and Callender 34.
MS. LASTORINO: Yeah. There's -- yeah, there's -- yeah.
MR. KESHAVARZ: They're separate documents.
MS. LASTORINO: All right. Let me -- I'll -- I'll mark the --
MR. KESHAVARZ: I mean, I'm just asking you --
MS. LASTORINO: Yeah, no, I have it attached to that. We can do

it as two. I don't mind. So he's not confused.
BY MS. LASTORINO:
Q. Here, take a look at that.
A. (Document review.)
Yeah, I know what this is.
Q. Have you seen that before?
A. Yeah.
Q. And what is that?
A. Something I got at the courthouse, it shows your judgments.
Q. Do you recognize that handwriting on that page?
A. Do I recognize --
Which handwriting?
Q. Do you see handwriting?
There's question marks and there's -- in the second column, there's some handwritten notations.
Do you see them?
A. Yeah, I see the handwriting.
Q. Is that your handwriting?
A. No.
Q. Do you know whose handwriting

it is?
A. No.
Q. Do you recall going over this document with someone?
A. I've seen this, yeah.
Q. Did you go over this document with an attorney?
A. Yeah.
Q. So could that be the attorney's handwriting?
MR. KESHAVARZ: Objection.
Just -- just pause for a second between when she asks a question and when you answer.
THE WITNESS: Okay.
MR. KESHAVARZ: It's fine.
THE WITNESS: Yeah.
MR. KESHAVARZ: You don't have your deposition taken every day.
THE WITNESS: Right.
MR. KESHAVARZ: So objection to the form of the last question.
BY MS. LASTORINO:
Q. You can answer.

Could that be your -- the attorney that you met with, could that be his or her handwriting?
MR. KESHAVARZ: Objection to form.
THE WITNESS: It could be.
BY MS. LASTORINO:
Q. All right. Let's just take a look at this now.
Do you see the first one where it says "Kings County Civil Court"?
A. Uh-huh.
Q. It says, "Plaintiff, 9201 Kings Highway" --
A. Uh-huh.
Q. -- "Association"?
Is -- is that a case against you?
A. I don't know.
Q. Did you ever hear of 9201 Kings Highway?
A. Nope.
Q. Okay. No. 3, do you see where it says "American Express" --

A. Uh-huh.
Q. -- "Plaintiff firm, Mel S. Harris; Defendant, Victor Callender"?
A. Uh-huh.
Q. Was that a case against you?
A. I guess. I'm not sure.
Q. Well, do you recall that being one -- something that came up on the credit report?
A. No, not -- maybe it came up on the credit report, but . . .
Q. Did you have an American Express credit card?
A. Yeah, but this has -- this has nothing to do with this, like this case here. I mean, it has a question mark next to it, but it has nothing to do with what we're here for. This has nothing to do with that.
Q. Well, I'm asking you about these other matters.
A. Okay.
Q. So this American Express, do you recall being sued by American Express?

A. Maybe I was sued, but I never -- I never had to go to court for -- for anything with American Express.
Q. And do you know why they would have sued you?
MR. KESHAVARZ: Objection to the form of the question.
If you know the answer, you can answer.
THE WITNESS: No, I don't know.
BY MS. LASTORINO:
Q. Did you default on any credit card payments that you had on your American Express card?
A. I can't remember.
Q. Take a look at the fourth one?
A. Uh-huh.
Q. You see where it says "Capital One Bank" --
A. Right.
Q. -- "versus Victor Callender"?
A. Uh-huh.
Q. Is that a case against you?
A. What year is this?

Q. I'm just asking you if this was a case against you.
A. I never went to court for anything like this for any Capital One.
Q. Did you have a credit card with Capital One?
A. Yeah, I had a Capital One credit card.
Q. And do you know if they sued you in connection --
A. No, I don't.
Q. -- with the credit card?
A. No.
Q. And you see that notation in the second column? Does that say "paying now"?
A. The second column of where?
Q. Next to the Capital One, to the left.
A. Oh, okay.
You're asking me if it says "paying now"?
Q. Yeah.
Is that what it looks like to

you?
A. Yeah, that's what it look like.
Q. Does reading that refresh your recollection as to a Capital One case against you and what transpired in that case?
A. Well, I don't think it's a case against me. It's not a case. This just shows that it's a judgment, but they have no case because I never went to court.
Q. So do you know, sitting here today, did Capital One Bank have a judgment against you?
MR. KESHAVARZ: Objection to the form of the question.
THE WITNESS: I don't know.
BY MS. LASTORINO:
Q. Take a look at No. 7.
Do you see that?
A. Right.
Q. In the fourth column, it says "Rushmore Recoveries"?
A. Uh-huh.
Q. And in the fifth column, it

says Victor C. Callender as the defendant?
A. Correct.
Q. Is this --
A. Yes.
Q. Is this one of the judgments that you testified to --
A. Yes.
Q. -- about before?
A. Right, that I paid off.
Q. And No. 8 on this form --
A. Uh-huh.
Q. -- do you see where it says "AIS Services"?
A. Uh-huh.
Q. In the fifth column, it says "Carol Callender."
Is that your mother?
MR. KESHAVARZ: Objection to the form of the question.
You may answer.
THE WITNESS: Yeah, it's my mother's name.
BY MS. LASTORINO:
Q. Is the information that you see

in No. 8, is that another one of the judgments --
MR. KESHAVARZ: Object.
BY MS. LASTORINO:
Q. -- on the credit card report?
A. I have no clue. I see my mom's name, but I have -- I have no clue.
Q. Did you have any credit cards jointly with your mother?
A. I can't remember.
Q. Do you know --
Do you remember if you were a defendant in a lawsuit by AIS Services?
MR. KESHAVARZ: Objection to the form of the question.
THE WITNESS: AIS Services. AIS.
I don't know. I don't know who AIS Services is.
MS. LASTORINO: Can you mark this.
(Defendant's Exhibit C, WebCivil Local Case Detail, was marked for identification.)

BY MS. LASTORINO:
Q. Take a look at what's been marked Defendant's C.
MR. KESHAVARZ: Do you have a copy for me?
MS. LASTORINO: I don't have extra copies.
BY MS. LASTORINO:
Q. Did you look at it yet?
A. No, I didn't look at it because I want to put these side to side.
(Document review.)
MR. KESHAVARZ: I would note there's no Bates stamp on this document.
MS. LASTORINO: Yeah, I didn't get to Bates stamp it yet.
MR. KESHAVARZ: So you have a document that's being used as an exhibit that apparently has not been produced in discovery?
MS. LASTORINO: No, it hasn't been yet.
MR. KESHAVARZ: It hasn't been

produced in discovery?
MS. LASTORINO: Right. Correct.
MR. KESHAVARZ: Why not?
It's printed out October 24th, so --
MS. LASTORINO: Yeah, that was yesterday, so I'll be more than happy to Bates stamp it for you.
BY MS. LASTORINO:
Q. Did you take a look at it?
A. Yeah, I looked at it.
Q. Okay.
Do you see the case name? It says, "AIS Services APO Chase Manhattan Bank" --
A. Uh-huh.
Q. -- "versus Callender, Carol M., Callender, Victor C."?
A. Uh-huh.
Q. You testified earlier that one of the judgments was Chase Bank.
Does this --
A. I said it might have been

Chase.
Q. Okay. Does this refresh your recollection as to it --
A. Right.
Q. -- being Chase?
MR. KESHAVARZ: Objection to the form of the question.
You may answer, if you know.
THE WITNESS: Repeat the question.
MS. LASTORINO: Can you read it back.
(The requested portion of the record was read back.)
MR. KESHAVARZ: Objection to the form of the question.
You may answer, if you know.
THE WITNESS: Right. Yes. This is one.
BY MS. LASTORINO:
Q. Okay. And is this the one where --
A. I showed up to court and they wasn't there -- nobody showed up to

represent.
Q. Okay. So this is the one where the default judgment was vacated?
A. Right.
Q. Okay.
A. That's when I showed up and nobody's there. I took two days off work. I lost payday, two days, and no one showed up.
Q. So -- and you testified before that you did have a credit card with Chase, right?
MR. KESHAVARZ: Objection to the form of the question.
You may answer, if you know.
THE WITNESS: Well, if this says I had a -- yeah.
BY MS. LASTORINO:
Q. So after --
So by vacate -- having the judgment vacated, you didn't have to pay any money on this account, right?
MR. KESHAVARZ: Objection to the form of the question.

You may answer, if you know.
THE WITNESS: I don't know. My recollection, if it's vacated, then I don't have to pay anything on that, if it's vacated.
BY MS. LASTORINO:
Q. Okay.
A. Because they didn't -- they never showed up.
Q. So other than those judgments against you, were you ever -- were you sued for anything else?
MR. KESHAVARZ: Objection to the form of the question.
You may answer, if you know.
THE WITNESS: Other than the judgments --
BY MS. LASTORINO:
Q. Right.
A. -- if I was sued for anything?
I can't -- I can't recall.
If we're talking 2012, those are the only things I knew I was being sued for.

Q. Well, I'm talking about ever.
A. Ever.
Q. Were you ever sued as a defendant?
MR. KESHAVARZ: Objection to the form of the question.
You may answer, if you know.
THE WITNESS: No, not that I can recall. Never been sued.
BY MS. LASTORINO:
Q. How about being the person who sued somebody else? Other than this instant case, did you ever sue anybody else?
A. No.
Q. So this is the first lawsuit you ever commenced?
A. Yes.
Q. Do you know what the FDCPA is?
A. No.
Q. So in connection with the Discover Bank -- now, let's go to the Discover Bank judgment.
You testified that you learned

about that judgment the same time you learned about the two other judgments against you when you obtained a credit report --
A. Right.
Q. -- correct?
A. Discover.
Q. What's the first thing you did after you learned about the Discover Bank judgment now, I want to focus on?
A. I went to the court. And that's when they gave me information on filing a motion to vacate.
Q. And who did you meet with at the court?
A. I can't remember the lawyer's name. They were free lawyers.
Q. Three?
A. Free. They were free.
Q. Oh, free lawyers?
A. Yeah, from the city.
Q. And then you obtained paperwork that you had to fill out?
A. Yes, I obtained the paperwork

Page 62

V. CALLENDER

and they walked me through filling out the paperwork.
Q. And what did you do after you filled out the paperwork?
A. They told me I needed to mail it to the address, whatever address was on the -- on the paperwork.
Q. So the attorneys told you where to mail it?
A. No. There was a paper with like -- with the judgments and the mailing address. So the address that I took from that, that's the address that I used from the information.
Q. And where did you get that information from?
A. Where'd I get it from? I can't -- I can't remember.
Q. Did you look --
A. I just can't remember.
Q. -- at a court file?
A. I can't remember. That, I can't remember.
I don't know if I got the

Page 63

V. CALLENDER

address off the credit report. I don't know if -- if I had to go -- I don't think I went on the Internet, but I don't think I had to go -- I don't know if I got it down at the courts. I don't know. I can't remember. But I know I had gotten the -- the address.
Q. And where did you send it?
MR. KESHAVARZ: Objection to the form of the question.
THE WITNESS: Whatever the address was.
BY MS. LASTORINO:
Q. Did you send it to a law firm?
A. I don't know if it was a law firm. I remember a name like Cormick Avenue, Cormick something. I don't know.
Q. And then what happened after you mailed it?
A. After a couple weeks or a couple of months, I got a card in the mail stating that I had to go to court.
Q. And did you go to court?
A. Of course. I took -- I had to

Page 64

V. CALLENDER

take the day off and lose pay to go to court. I went to court, sat in the back and --
Q. What day --
I'm sorry?
A. And no one showed up.
Q. And what day was that?
A. Off the top of my head, I can't remember the date. Sorry.
Q. Just sometime 2012?
A. Yes, in 2012. I can't remember the date. Maybe -- I know it's between January and August. I know it's not later than that.
Q. Now, were all three of these -- when I say "three of these," I'm talking about the two other judgments against you and the Discover Bank judgment, you had to go to court on all three?
A. Yeah, but I don't think -- it's not the same day; different day, different months.
Q. But all in 2012?
A. Yes.

Page 65

V. CALLENDER

Q. And then after you showed up in court and you said nobody was there?
A. Yeah.
Q. Then what happened?
A. I don't know. The judge, I think, gave me a paper that said -- that said something about returning it to the calendar year, and I remember asking him about that, what that means. I can't remember his answer, but then I got -- when I got home, a couple weeks later, I got another notice that I had to return back to court again.
Q. And did you go back to court?
A. Of course I was there. Another day I lost pay.
Q. And what happened on that date?
A. No one ever showed up.
Q. So you were able to get the default judgment vacated?
A. I asked the judge if there's going to be another time for me to come back, because I can't be taking days off my work and these people are not showing up.

Page 66

V. CALLENDER

And he said, no, that's it.
So I said, what do I do from now? He said, make sure you keep the paperwork because they have a tendency of coming back to haunt you, so keep your paperwork.
Q. The judge told you that?
A. The judge told me that. He said make sure you keep your paperwork.
Q. And did you?
A. I kept my paperwork in a secret compartment, hidden away, just like the judge said.
Q. And did you give those papers in the secret compartment to your attorney in this case?
MR. KESHAVARZ: Objection to the form of the question.
You may answer it.
THE WITNESS: Yes.
BY MS. LASTORINO:
Q. So all of those papers were provided to your attorney?
A. Yeah, the paperwork that the

Page 67

V. CALLENDER

judge gave me I gave to the attorney -- to the attorney.
Q. Did you have a credit card with Discover Bank?
A. If there's a judgment against me and my name on it, yes, I did.
Q. Now, in terms of the three judgments, two of which you testified were vacated and one of which you settled with --
A. Right.
Q. -- do you recall which judgment you vacated first? Was it the Discover Bank or the Chase?
A. I can't remember which one was -- was first.
Q. Was it a month apart? Two months apart?
A. I can't remember.
Q. Now, you testified earlier that you received several letters, approximately five, from Forster & Garbus?
A. Uh-huh.
Q. Can you tell me what they said,

Page 68

V. CALLENDER

what you recall?
A. They were saying that I owed 9- -- like around $9,000, to Forster & Garbus. That's what I remember.
Q. And is it your understanding that all of those five letters said the same thing, that you owed that amount of money?
A. Yeah, and I had a case that was vacated so there was no way that I could owe $9,000. I was free at that time.
Q. Did you ever tell Forster & Garbus that you vacated the judgment?
A. No. I -- I sent them a letter -- I sent them -- I remember sending them a letter asking them to prove that I owe that money. That's what I did.
Q. And what did you tell them in that letter?
A. I can't remember off the top of my head what I told them. It was a long letter.
Q. I'm sorry, I didn't --
A. It was a long letter so I can't

Page 69

V. CALLENDER

remember word-for-word. But I just wanted them to show me proof that I owed them that money because I didn't know who Forster & Garbus was. And that year, I had -- I had cases that was vacated so I didn't owe anybody any money so I don't know where this $10,000 or 9,000 and change was coming from.
MS. LASTORINO: Can you mark that.
(Defendant's Exhibit D, a letter dated October 23, 2012, Bates stamped FG_000008 and FG_000010, was marked for identification.)
BY MS. LASTORINO:
Q. Can you take a look at what's been marked as Exhibit D, please.
MR. KESHAVARZ: Do you have a copy for me?
MS. LASTORINO: I don't have any copies. You don't have to -- you're asking me every time, it's going to be the same answer.
Oh, actually, if you want to

Page 70

V. CALLENDER

take a look at the first page. I just don't have the attachment.
MR. KESHAVARZ: Thank you.
THE WITNESS: (Document review.)
Yeah, that's the letter.
BY MS. LASTORINO:
Q. That's the letter that you just testified to?
A. Yep.
Q. So that's your signature at the bottom?
A. Yeah.
Q. And do you see -- do you see on the bottom where it says, "CC: FTC Consumer Response Center, New York City Department of Consumer Affairs"?
A. Right.
Q. You sent this letter to the Department of Consumer Affairs?
A. Right. I must have sent it to -- yeah.
Q. And it's --
MR. KESHAVARZ: May I? Are you

Page 71

V. CALLENDER

saying the second page was with the first page?
MS. LASTORINO: Well, I'm going to ask him.
MR. KESHAVARZ: Okay. Go ahead.
BY MS. LASTORINO:
Q. Do you see the bottom where it says, "Enclosed excerpts from credit report"?
Do you see that?
A. Uh-huh.
Q. Go to the second page.
Is that the excerpt from the credit report that you enclosed --
MR. KESHAVARZ: Objection to the --
BY MS. LASTORINO:
Q. -- in your letter?
MR. KESHAVARZ: Objection to the form of the question.
You may answer.
THE WITNESS: Yeah.

Page 72

V. CALLENDER

BY MS. LASTORINO:
Q. Now, did you file a complaint with the Department of Consumer Affairs?
A. Yeah.
Q. Other than this letter?
A. A complaint to the -- I know I filed a complaint. I filed a complaint because I kept on getting a letter -- getting the letters after -- I kept on getting their letters giving -- I wanted -- I filed a complaint, because the letters weren't stopping and they weren't sending any information to me to let me know that there was this proof that this was my -- that this was my -- this was mine, the $9,000 that I had to pay was mine.
Q. So --
A. So I had to file.
Q. Okay. My question is -- because I haven't received a separate complaint in this case, so I just didn't know if this letter was your complaint.
Or if you filed something separate with the Department of Consumer

Page 73

V. CALLENDER

Affairs?
MR. KESHAVARZ: Objection to the form of the question.
If you know the answer, you may answer.
THE WITNESS: I don't know if you're trying to confuse me or what, but --
BY MS. LASTORINO:
Q. No, I'm not trying to confuse you at all.
A. This -- okay.
Q. I'm just trying to clarify something.
A. (Reading.)
This is what I sent.
Q. Okay. You prepared this letter yourself?
A. I was assist -- I had help.
Q. Who helped you?
A. An attorney.
Q. And who was that?
A. I can't remember her name. I can't remember the company.

Page 74

V. CALLENDER

Q. And where was this attorney located?
A. I know it was the Lower East Side, but I can't remember the name of the company.
Q. It was a he or a she?
A. It was a he.
Q. Did you pay him?
A. No.
Q. How did he help you with the letter?
A. He explained what the letter was about and -- and told me where I needed to sign.
Q. And did he help you with what language to use in it?
A. Yeah, kind of.
Q. Is everything in this letter true and accurate?
A. Yes. Pertaining to the letters I was receiving from Forster & Garbus, yes.
Q. So do you --
Take a look at the letter, Mr. Callender.

Page 75

V. CALLENDER

A. Uh-huh.
Q. Do you see in the middle where it says, "I do not owe this debt and dispute it because I believe I was a victim of identity theft"?
A. Right. This is because I went to court previous months and I had my -- it was vacated. Whatever cases I had against me as far as judgments, they were vacated. So if somebody's sending me a letter and stating that I owe $10,000, then it must have been -- it must be an identity theft. That's what I'm assuming. I'm not sure if it's an identity theft, I'm just assuming that's it. And it must be identity theft unless you show me that the copy of the original application, copy of the statements, copy of the judgments and all that stuff. That's what this letter was about.
Q. Did you ever report to the police that you may have been a victim of identity theft?
A. Nope.

Page 76

V. CALLENDER

Q. Never filed an incident report?
A. No. That might have been the next step.
Q. Do you see the sentence after that that says, "I have never had an account with Discover Bank"?
A. Yeah, I see that.
Q. And that's true, too?
MR. KESHAVARZ: Well, that's not what it says.
MS. LASTORINO: I'm just asking him.
MR. KESHAVARZ: That's not what the whole sentence says.
THE WITNESS: Wait, wait, yeah. A trick or something.
BY MS. LASTORINO:
Q. Tell me whatever you want to tell me about that sentence.
MR. KESHAVARZ: Under this account number.
THE WITNESS: Okay. You see this account? You see on the bottom what it says there?

Page 77

V. CALLENDER

BY MS. LASTORINO:
Q. Uh-huh.
A. It says, "I have never had an account with Discover Bank and this creditor under account number 103002130730716 does not appear on my credit report."
Q. So when you got your credit report, there was a judgment on there by -- from Discover Bank, right?
MR. KESHAVARZ: Objection to the form of the question.
THE WITNESS: Right.
BY MS. LASTORINO:
Q. Was there anything else on that credit report regarding Discover Bank?
MR. KESHAVARZ: Objection to the form of the question.
You may answer, if you know.
THE WITNESS: I don't know.
Whatever judgment that was on there, that's what I went to court for.
BY MS. LASTORINO:
Q. Okay. Now, after reading this

V. CALLENDER

letter, isn't it true that you didn't mention that the default judgment had been vacated, that you vacated it?
MR. KESHAVARZ: Objection to the form of the question.
THE WITNESS: I didn't think I needed to.
BY MS. LASTORINO:
Q. And why is that?
MR. KESHAVARZ: Objection to the form of the question.
THE WITNESS: Because these people were stating that I owe money, so that's not -- it wasn't their business. They just needed to prove to me that I owed that money.
BY MS. LASTORINO:
Q. So you're saying --
A. That it wasn't --
Q. I'm sorry.
A. They needed to prove to me that I owed the $10,000 they were asking for.
Q. So you didn't think it was important to tell them that you --

V. CALLENDER

A. I didn't --
Q. -- went to court and vacated the default judgment?
A. No, I didn't think --
MR. KESHAVARZ: Objection to the form of the question.
THE WITNESS: I didn't think I was supposed to do that, or I'm supposed to do that.
BY MS. LASTORINO:
Q. Now, that attorney that you met with, that male attorney in the Lower East Side, did he know that you vacated the default judgment?
MR. KESHAVARZ: Objection to the form of the question.
You may answer, if you know.
THE WITNESS: I can't remember.
BY MS. LASTORINO:
Q. You can't remember?
A. Uh-uh. I can't remember if I discussed it with him. I must have discussed it with him, but I don't know. I can't remember. Again, I didn't think it

V. CALLENDER

was important because I already vacated the case, so this was something completely new to me. So I wanted to attack this and figure out what this was, popping up months after I went to court and lost two days of pay.
Q. Was there a deliberate reason that you may not have told Forster & Garbus that you have vacated the default judgment?
MR. KESHAVARZ: Objection to the form of the question.
You may answer, if you know.
THE WITNESS: I didn't know who Forster & Garbus was.
BY MS. LASTORINO:
Q. But you were sending them a letter, correct?
MR. KESHAVARZ: Objection to the form of the question.
THE WITNESS: Because they were sending me a letter saying that I owed them money.
BY MS. LASTORINO:
Q. On the Discover Bank?

V. CALLENDER

A. They were sending me letters --
MR. KESHAVARZ: Just give me a pause for one second.
Objection to the form of the question.
You may answer.
THE WITNESS: They were sending me letters upon letters that I owed this money so I was sending the letters to ask them to prove to me that I owed, and they never did.
BY MS. LASTORINO:
Q. Do you have a copy of that credit report --
A. No.
Q. -- that you pulled in 2012?
A. I don't have it.
Q. Did you destroy it?
MR. KESHAVARZ: Objection to the form of the question.
THE WITNESS: No. I don't have it on me. I don't have it.
BY MS. LASTORINO:
Q. I am not asking if you have it

V. CALLENDER

on you.
Do you have it at home?
A. No, I don't have it.
Q. So what happened to it?
A. I don't know. It disappeared.
Q. It disappeared?
A. I don't know. I don't have it.
Q. Well, how do you think it disappeared?
MR. KESHAVARZ: Objection to the form of the question. This is becoming abusive.
You may answer.
THE WITNESS: Because after -- I'm very meticulous with my paperwork. After a certain amount of years, I destroy certain things that I don't need clouding up my apartment.
BY MS. LASTORINO:
Q. So it's not in the secret compartment?
A. No, it's not in the secret compartment because the judge didn't tell

V. CALLENDER

me to keep my -- my credit report. He told me to keep the Discover Bank vacate motion.
Q. About how many pages was the credit report; do you remember?
A. I don't remember that.
Q. Did you have any conversations with any employee at the Department of Consumer Affairs on the Discover Bank matter after you filed the complaint?
A. I don't -- I don't know. I don't know. I can't remember.
Q. And would you have a copy of the complaint that you filed at home or -- or somewhere?
MR. KESHAVARZ: Objection to the form of the question.
You may answer, if you know.
THE WITNESS: I don't know.
BY MS. LASTORINO:
Q. Was it?
A. This is -- this --
Q. Go ahead.
A. This is 2012. Like -- like I won't -- no, I don't -- I don't have it.

V. CALLENDER

Q. Was the complaint that you sent to the Department of Consumer Affairs, was it a form -- was it a form that you had to fill out?
A. I don't remember.
Q. Was it in a letter format?
A. It was -- yeah, I think it was a letter format.
Q. And was it a letter addressed to the Department of Consumer Affairs?
A. Yeah.
MS. LASTORINO: I'm going to demand production of that letter that was sent to the Department of Consumer Affairs.
BY MS. LASTORINO:
Q. So after you filed a complaint with the Department of Consumer Affairs, what happened next?
MR. KESHAVARZ: Objection to the form of the question.
You may answer, if you know.
THE WITNESS: They sent me a letter and they said they were

V. CALLENDER

looking into it.
BY MS. LASTORINO:
Q. Did they -- they sent you a letter that said that?
A. Yeah.
Q. And did you have any communication with them after that?
A. No. They said they were looking into it so I trust their judgment.
Q. Did you ever follow up to see how the investigation went?
A. No. Because I got another letter.
Q. And what did that letter say?
A. I can't remember.
Q. So how many letters did you get from the Department of Consumer Affairs?
A. I think it's -- it's two. I'm not sure.
Q. You received two letters?
A. I think it's two. I'm not sure. I don't know if -- I know I sent them a letter and they sent me a letter and then I got another letter. I don't know if

V. CALLENDER

the other letter was from Forster & Garbus or if the second letter was from the Consumer Affairs. I'm not sure. But I know I got -- I got two letters talking about what was going on with that case, but I can't remember off the top of my head.
Q. Now, after you filed the complaint with the Department of Consumer Affairs, did you receive a letter from Discover Bank at all?
MR. KESHAVARZ: Objection to the form of the question.
You may answer.
THE WITNESS: No, I don't recall. No, I don't recall. I don't think so. Everything at that point was getting from Forster & Garbus.
BY MS. LASTORINO:
Q. So did you ever learn from Discover Bank that they did a fraud investigation on your account?
MR. KESHAVARZ: Objection to the form of the question.
You may answer, if you know.

V. CALLENDER

THE WITNESS: From -- from Discover -- can you repeat that question, did I know.
MS. LASTORINO: Can you read it back.
(The requested portion of the record was read back.)
MR. KESHAVARZ: Objection to the form of the question.
You may answer.
THE WITNESS: No.
(Discussion off the record.)
(Defendant's Exhibit E, Order to Show Cause and Affidavit in Support of Order to Show Cause, Bates stamped Callender 114 through Callender 115, was marked for identification.)
BY MS. LASTORINO:
Q. Take a look at what's been marked as . . .
A. (Document review.)
Okay.
Q. Okay. Turn to the second page.

V. CALLENDER

Is that your signature?
A. Yeah.
Q. Okay. And is this the --
A. Uh-huh.
Q. -- document you filed?
A. That's correct.
Q. And this is what resulted in the Discover Bank judgment being vacated?
A. Yes.
(Defendant's Exhibit F, "Proposed" Written Answer Consumer Credit Transaction, Bates stamped Callender 116, was marked for identification.)
BY MS. LASTORINO:
Q. Take a look at what's been marked as Exhibit F.
A. (Document review.)
Q. Do you recognize that?
A. Yeah.
Q. Can you tell me what it is?
A. It's one of the forms I filled out when I went to the Bronx court.
Q. And that's your signature on

V. CALLENDER

the bottom?
A. Uh-huh.
Q. And you signed it before a notary? You see that on the left, notary?
A. Right.
Q. And what did you just point to?
A. Huh?
Q. You just pointed to something on the document.
What did you just point to?
A. I was pointing to Discover Bank.
Q. Do you see where it says "defenses"?
A. Uh-huh.
Q. And there's boxes next to it?
A. Uh-huh.
Q. Do you see box No. 7 where you checked off "I dispute the amount of the debt"?
A. Uh-huh.
Q. And that's the only box that's checked off under defenses, right?
MR. KESHAVARZ: Objection to

V. CALLENDER

the form of the question. The document speaks for itself.
BY MS. LASTORINO:
Q. You can answer.
A. The document speaks.
Q. So that's the only box that's marked off?
MR. KESHAVARZ: Objection to the form of the question.
THE WITNESS: Yes.
BY MS. LASTORINO:
Q. Okay. So do you see Defense No. 4, "I do not owe this debt"? You didn't mark that?
MR. KESHAVARZ: Objection to the form of the question.
THE WITNESS: Which box is that?
BY MS. LASTORINO:
Q. Number 4?
A. I didn't mark it.
Q. And why didn't you mark that one?
MR. KESHAVARZ: Objection to

V. CALLENDER

the form.
THE WITNESS: I didn't think I needed to.
BY MS. LASTORINO:
Q. Because you --
A. Whichever one I marked, that's the one I marked at that particular time. I would -- this was years ago. And so when I looked at it, I dispute the debt.
Q. So that was -- reading these, that was the only defense that you marked off?
MR. KESHAVARZ: Objection to the form of the question.
You may answer.
THE WITNESS: Yes, reading this, that's the only one I marked off.
BY MS. LASTORINO:
Q. And do you see No. 5, it said, "I did not incur this debt, I am a victim of identify theft or mistaken identity"?
A. Yes, I see that.
Q. You didn't mark that one

V. CALLENDER

either, correct?
MR. KESHAVARZ: Objection to the form of the question.
THE WITNESS: No, I didn't mark that one either.
BY MS. LASTORINO:
Q. And why is that?
MR. KESHAVARZ: Objection to the form of the question.
THE WITNESS: I had no clue. At that point in time, I marked No. 7.
BY MS. LASTORINO:
Q. And then did something change from when you did this proposed answer to when you sent Forster & Garbus the letter as to Discover Bank account?
MR. KESHAVARZ: Objection to the form of the question.
You may answer.
THE WITNESS: You're asking if something -- if anything changed? You're asking me if anything changed from the time I sent this -- wrote

V. CALLENDER

this letter to the time that --
BY MS. LASTORINO:
Q. From the time you filled out this proposed answer?
A. Right.
Until the time that I started getting the letters?
Q. No, until the time that you sent the letter to Forster & Garbus that was marked Exhibit --
THE COURT REPORTER: The letter was D.
BY MS. LASTORINO:
Q. -- Exhibit D?
A. Yeah, I think this -- after I filled this out, I had to go to court.
Q. In Exhibit D, you wrote that you don't owe the debt, correct?
MR. KESHAVARZ: Objection to the form of the question.
BY MS. LASTORINO:
Q. Do you see where it says that on D in the middle, "I do not owe this debt and dispute it because I was a victim of

V. CALLENDER

identity theft"?

MR. KESHAVARZ: Well, that's not what it says. You're stopping it in the middle.

MS. LASTORINO: I'm saying what that sentence says.

MR. KESHAVARZ: No, you're stopping the sentence.

THE WITNESS: Okay. I think we went over this before, right? I don't know if I have to read the whole line again.

BY MS. LASTORINO:

Q. Read whatever you want.

A. Okay. It's in accordance to the account number 103002130730716.

Q. And where did you get that account number from?

A. From -- from the paperwork that I was getting, the letters from Forster & Garbus.

Q. And do you know the account number of the other --

Did you only have one account

V. CALLENDER

with Discover Bank?

A. I have no clue. I can't remember.

Q. You may have had more than one account, credit card with Discover Bank?

A. When I went to the courts, they gave me the judgment slip, this paper right here, and whatever judgments are here, I went to the court, I filled these things out here and then I appeared in court. I followed the steps. Discover Bank never showed up, I lost two days of pay, they said my case was vacated, then a couple of years later I get garnished, illegally.

Q. Why illegally?

A. Why illegally?

Q. Yeah. You said "illegally." What's the basis for that?

MR. KESHAVARZ: Objection to the form of the question.

You may answer, if you know.

THE WITNESS: Because my cases were vacated by a judge, right?

V. CALLENDER

BY MS. LASTORINO:

Q. Uh-huh.

A. What "vacate" mean to you?

Q. I'm not the one here to answer questions; you are.

A. Okay. So leave it at that.

Q. Did you ever tell Discover Bank that your -- the judgment was vacated?

MR. KESHAVARZ: Objection to the form of the question.

You may answer.

THE WITNESS: Don't -- don't recall.

BY MS. LASTORINO:

Q. Did you ever tell the Department of Consumer Affairs that the judgment was vacated?

MR. KESHAVARZ: Objection to form.

You may answer.

THE WITNESS: I don't recall. Like I said, the only reason I was writing letters to the Consumer Affairs was because I was getting the

V. CALLENDER

letters from Forster & Garbus after my case was vacated. I had to pay on one and the other two was vacated, so there was no more.

Like where is this $10,000 coming from, that I needed to pay?

So I needed them to show proof, and they never showed me proof. So I wrote a letter to Consumer Affairs so they could look into it and have it stopped.

(Defendant's Exhibit G, a compilation of letters, was marked for identification.)

BY MS. LASTORINO:

Q. Take a look at what's been marked as Exhibit G. And it's -- for the record, it's --

Actually, you know what, let me see something. I think I made a mistake on the last page.

Oh, no, maybe I didn't.

Can I just see that for a second?

V. CALLENDER

A. (Complies.)

Q. It's seven pages.

Take a look at that.

A. (Document review.)

MR. KESHAVARZ: So, for the record, these are documents Forster & Garbus 01, 181, 182, 178, 179, and Callender 3, all but the last page were produced by Forster & Garbus.

BY MS. LASTORINO:

Q. Did you look at them, Mr. Callender?

A. I looked at them.

Q. Are these the letters that you testified to earlier when you said you received like five or approximately five letters?

MR. KESHAVARZ: Objection to the form of the question.

You can answer, if you know.

THE WITNESS: I can't tell you if these are the letters.

BY MS. LASTORINO:

Q. Are these the types of letters

V. CALLENDER

that you recall receiving from them?

MR. KESHAVARZ: Objection to the form of the question.

You may answer, if you know.

THE WITNESS: I can't say that either.

BY MS. LASTORINO:

Q. Do you have documents other than these that you refer to when you said you received five letters?

MR. KESHAVARZ: Objection to the form of the question.

Document -- these -- this is Forster & Garbus's document production. This is not Mr. Callender's document production. I object to the form of the question.

You may answer, if you know.

THE WITNESS: Yeah, the letters look similar to -- something like this, but this says 8,000. The ones I was getting were saying 9,000, close to $10,000, so I don't know if these -- the ones that I had, what

V. CALLENDER

they said.

BY MS. LASTORINO:

Q. Do you have the --

A. I don't know.

Q. Do you have the letters that you testified to that you received from Forster & Garbus?

A. Yeah, I had to -- I kept -- yeah, I kept -- I kept it for my record because I didn't understand what it was.

Q. You have the five letters?

MR. KESHAVARZ: Objection to the form of the question.

THE WITNESS: I don't think I have five. I think I have maybe one or two. The ones that said 9,000 and plus.

BY MS. LASTORINO:

Q. And did you provide your attorney with those letters?

MR. KESHAVARZ: Objection to the form of the question.

THE WITNESS: Yeah.

MS. LASTORINO: To the extent

V. CALLENDER

that they haven't been produced, I'm demanding the production of those letters.

BY MS. LASTORINO:

Q. So you think you only have two of the five?

MR. KESHAVARZ: Objection to the form of the question.

THE WITNESS: Yeah. Yeah, I think I only got two. I'm not sure.

BY MS. LASTORINO:

Q. And what happened to the other three?

MR. KESHAVARZ: Objection to the form of the question.

THE WITNESS: I have no clue. Like I said before, I don't keep backups of letters -- backups of bills, I don't keep those. I shred at the end of the year receipts and bills. I keep my tax documents every seven years. After seven years, they go bye-bye.

V. CALLENDER

BY MS. LASTORINO:

Q. Take a look at the last page of that group of documents.

A. The last page?

Q. Yes.

MR. KESHAVARZ: Document Callender 3?

MS. LASTORINO: Right.

BY MS. LASTORINO:

Q. Do you see "Callender 3" on the bottom?

A. Yes.

Q. So this -- this document you received, correct?

MR. KESHAVARZ: Objection to the form of the question.

You may answer, if you know.

THE WITNESS: I don't know. I have to pair it up with the letter that I have at home.

BY MS. LASTORINO:

Q. Okay. Well, this came from your document production.

A. It's probably --

V. CALLENDER

Q. That's why your --

A. Probably one of them.

Q. Okay. So you received this document?

MR. KESHAVARZ: Objection to the form of the question.

You may answer, if you know.

THE WITNESS: Probably one of them. If my lawyer gave it to you, then it's probably one of the letters.

BY MS. LASTORINO:

Q. Do you see on the Callender 3 document --

MS. LASTORINO: You know what, I think it's clearer -- let me just -- also just have that marked separately, so we don't keep referring to it as --

MR. KESHAVARZ: Just so the record's clear, we're keeping Callender 3 as part of Exhibit G, but we're making another copy of Callender 3 as Exhibit H?

V. CALLENDER

MS. LASTORINO: Right. So it will appear both places, yeah.

(Defendant's Exhibit H, a letter dated July 2, 2012, Bates stamped Callender 3, was marked for identification.)

(A brief recess was taken from 2:06 p.m. to 2:23 p.m.)

(Defendant's Exhibit I, a document, Bates stamped Callender 77, was marked for identification.)

BY MS. LASTORINO:

Q. Take a look at what's been marked as Exhibit I.

A. (Document review.)

Yes, I see it.

Q. Have you seen that before?

A. Yeah.

Q. Is that your signature on the bottom?

A. Yes.

Q. Is that your handwriting --

A. Yes.

Q. -- in the middle?

V. CALLENDER

Can you -- it looks like it says, "To do" --

A. Yes.

Q. -- "send as" --

A. Right.

Q. What does it say after "copy for proof" and then what does it say, "wait till all cases"?

I just can't make out what that says.

A. It says, "Wait till all cases and then mail."

I don't know what else was there. It looks like a sticky note that was there.

Q. Uh-huh.

Was this something that you sent to Forster & Garbus?

A. No, I don't think so. I don't even -- I -- yeah, it says up there Forster & Garbus.

Q. It's addressed to Forster & Garbus.

Do you have a specific

V. CALLENDER

recollection of sending it to Forster & Garbus?

A. I don't know. I don't know if I mailed it out, but . . .

Q. What does the reference mean "wait till all cases are then mail"? What does that mean?

A. I don't know. There's a sticky note. There's a sticky pad that I had here.

Q. Uh-huh?

A. And I was writing. I mean, at that time, I had stuff in mind. This is not Morse Code or anything. It's just stuff that I was writing.

I can't -- 2012, I can't remember what I was writing here, what it was in reference to, but I know this was a letter that had to be -- had to go to Forster & Garbus in 2012.

Q. Okay. But that's your handwriting -- the handwritten notations is your handwriting?

A. Yeah.

V. CALLENDER

Q. Okay.

(Defendant's Exhibit J, a letter with attached application, Bates stamped FG_000061, was marked for identification.)

BY MS. LASTORINO:

Q. Is there something that you wanted to add to your testimony?

I heard you say something before.

Were you saying anything on the record when the court reporter was marking the exhibit?

A. No. What I just said just now is just, it was 2012, I can't really remember exactly what I was trying to say on the sticky pad. I mean, "send as copy for proof, wait till all cases are then mail." I don't know what my thoughts were at that point for the last sentence.

Q. Okay.

Take a look at what's been marked as Exhibit J.

A. (Document review.)

V. CALLENDER

MR. KESHAVARZ: Exhibit J is one page, Forster & Garbus 61, document produced by Forster & Garbus.

THE COURT REPORTER: It's two pages.

MR. KESHAVARZ: What?

MS. LASTORINO: It's two pages.

MR. KESHAVARZ: Oh, two pages. Okay.

BY MS. LASTORINO:

Q. Did you take a look at that?

A. Yes, I took a look.

Q. Have you seen this before?

A. I can't recall.

This letter is saying in March 2013. I wasn't living here in 2013 at 408 130th Street.

Q. And you testified earlier.

But where were you living at that time in 2013?

A. Where was it in 2013? I didn't say anything about 2013.

Q. I'm sorry?

V. CALLENDER

A. Did I say anything about 2013?

Q. Well, I think we went through your prior places --

A. Yeah, but --

Q. -- where you lived.

A. -- I don't think I said anything about 2013.

Q. Okay. Then, I'll ask you now.

Where did you live in March of 2013?

A. 2013?

I didn't live at 408.

Q. Where did you live?

A. I lived at Bougadis (phonetic) -- Bougadis.

Q. What does that mean?

A. That's a place -- that's an apartment I had at Bougadis. I just can't remember the exact address.

Q. And that's located where?

A. It's in Washington Heights.

Q. And this isn't one of the reasons that you provided with me before?

A. No. You didn't ask about 2013.

Q. And what period of time did you live in Washington Heights?

A. Short. I went through a -- a difficult situation after -- see, when I moved to -- from -- from West 130th Street, I moved into an apartment that a friend said -- what's that kind of apartment again? I don't know the type of apartment. Like when you -- the person moves away and then you get the -- you get the -- you know, the rent the apartment. I can't remember the name of it, but you rent the apartment for a certain amount of time.

But while we were there, they didn't tell the landlord that we were moving in and so we had some issues with the landlord and we had to move. And so we got an apartment, it was owned by a particular lady. And we rented an apartment, and the -- the chair of the building said what she did was illegal. And so that's when I had to find a place at Leggett.

Q. So --

A. So to tell you the exact times and dates -- I lived at 379 for a couple of months, maybe like three or four months.

Q. And the Washington Heights apartment you said was for a couple of months?

A. Yeah. I don't know exactly how much.

Q. And who did you live there with?

A. I lived with my family.

Q. So your wife and your three kids?

A. Yeah.

She actually knew the woman, but the woman, freaking liar.

(Defendant's Exhibit K, a document, Bates stamped Callender 65, was marked for identification.)

BY MS. LASTORINO:

Q. Can you take a look at what's been marked as Exhibit K, which, for the record, has been Bates stamped Callender 65.

A. (Document review.)

Yeah, I'm looking at it.

Q. Have you seen that before?

A. Not to my recollection.

Q. Do you know why it would have been produced in your document production?

MR. KESHAVARZ: Objection to the form of the question.

You may answer, if you know.

THE WITNESS: No. I don't know.

BY MS. LASTORINO:

Q. So you've never seen this before?

MR. KESHAVARZ: Objection to the form of the question.

You may answer, if you know.

THE WITNESS: No, I don't think I've -- I haven't seen this before. I don't think anybody could tell me to speak -- what this say because I'm not a judge, I'm not a lawyer.

Nothing that I've said here was rehearsed. Everything that I'm

telling you here is the truth, so . . .

BY MS. LASTORINO:

Q. When did you first find out, as you allege in your Amended Complaint, that your wages were garnished?

A. Somewhere in January of 2015.

Q. And how did you find out?

A. So I went out and got this job because I didn't want to go on unemployment and I didn't want to go on welfare, so I just went and got whatever job I could get, so I went to Dollar Tree, got this job. And when I was working, you know, the paycheck wasn't as big, it wasn't a lot of money, but, you know, it helped out a little bit.

So you're asking me how I noticed?

Q. Uh-huh.

A. I noticed when the small amount of money became really smaller. It became real -- it just shrunk. And at the time we didn't get -- we weren't getting pay stubs,

so I had to go, you know, through the channels and get a stub. And when I got the pay stub, I saw the word "garnished" on the bottom and my jaw dropped.

Q. Where were you living in December of 2014?

A. 2014 of December?

Q. Let me see.

A. I'm mixing up these dates, man.

I was living at Leggett. 986 Leggett Avenue.

Q. Were any of your bank accounts restrained?

MR. KESHAVARZ: Objection to the form of the question.

You may answer, if you know.

THE WITNESS: Around what time?

BY MS. LASTORINO:

Q. In connection with the Discover Bank matter?

A. No.

Q. So you haven't incurred any bank fees in connection with the Discover Bank matter?

A. No.

MR. KESHAVARZ: Objection to -- objection to the form of the question.

You may answer.

THE WITNESS: No.

BY MS. LASTORINO:

Q. And you haven't sustained any bank charges in connection with the Discover matter?

A. Not that I --

MR. KESHAVARZ: Object to the form.

Go ahead, you can answer.

THE WITNESS: Not that I can recall.

BY MS. LASTORINO:

Q. So January of 2015 is when you said you learned about . . .

A. Yes.

Q. Did you lose time from work after you learned about the -- the garnishment?

A. In -- what do you mean?

Q. At Dollar Tree.

A. What do you mean if I lost time from work?

Q. Did you take time from work?

A. This is after I found out about the stub?

Q. Uh-huh.

A. Yeah, I mean I had to run around and try to figure out what this was about.

First of all, a couple of years ago, I had this case vacated, and then come 2015, I see the word "garnishment." I knew what the word mean, but I didn't believe it. So I went -- and I literally took my phone out and typed up what the meaning of the word because I didn't believe it.

And then I asked a friend -- after I saw it on my phone, I asked a friend, man, how could this happen?

And the first thing he told me was, man, you must have got a girl pregnant somewhere, and then my heart dropped even

further. And I'm like, wait a minute, me get a girl pregnant somewhere? It had to have been before I was married. It had to have been before I got married.

So I went -- I remember I went home and I was really stressed out because I'm thinking maybe some woman out there is garnishing my paycheck because I -- you know, because -- because of some child. So all night I just stood up just trying to figure out, like, what this was about.

But when I thought about it, by the next day, I knew it was -- I knew I was -- I didn't have any children by anybody. I thought about it really hard, because I'm not that type of a guy. But I -- so what I did next was I went to my files, my documents that I had and I searched the documents and there was nothing.

So I went down to the courts and I got a form like this (indicating), and there was nothing. And I went back to my files again, just to double-check, and

there was not -- I couldn't find anything.

Then I called my -- I asked my boss. My boss, he's from Pakistan. He doesn't speak English that well. He didn't understand what I was asking, so it was a bunch of runaround.

At this time I'm like really -- really, really getting stressed out, because I really don't know what this was. I don't know what this is about. I'm not thinking even debt because in 2012 I had all the debt cleared away. I'm not thinking that at this point. Right?

Then, to make matters even worse, I was -- couple months before, I had a job. I lost my job. I got this job, wasn't paying well, to get my money taken -- the little money that I was getting taken away from me, it was just too much.

Q. So how many days -- how much time did you lose from work as a result of that?

A. It was just maybe like two

days.

Q. Two full days? Or a part of --

A. What do you mean full? Like when I work.

Q. Well, what were your work hours when you worked at Dollar Tree?

A. When I work, it's like a day. You lose a day, it's a day's pay.

Q. Well, what were your hours? Was it 9:00 to 5:00?

A. It switches up.

Q. But it was a total of eight hours a day?

A. Yeah, eight, six to seven hours.

Q. So when you said that you had to take days off, you took two full days, so 16 hours?

A. I had to go downtown. I had to go down to pull that, to pull this report, you know, pull the report, run around trying to figure out what -- my whole goal was to try to figure out what was going on, who was taking my money. My job wasn't

telling me -- wasn't giving me any information. Actually, the job that I was working for, the head office was in Virginia. And I called Virginia and I had to leave a message. You know, there was no voice to speak to anybody.

So it took me like a week before I found out what really happened. And the lady I spoke to told me that I was being garnished for $11,000, then my heart dropped even further to the ground and now I'm going crazy in my head. Because $11,000, who do I owe $11,000?

As far as I know, I went to my documents, and I don't see any judgments against me. I went to this because I went to the courts and I had pulled this, there was no judgments. So who do I owe $11,000 to? That was my thought.

Q. You allege that this was stressful to you?

A. Of course it was.

It wouldn't be stressful if you were out of -- out of a job for a couple of

months, right?

Out of work for a couple of months, behind on your bills, then to get a job which is not paying enough -- enough money that was covering the bills before, all right. Then to get money taken out of your check, right? It makes matters even worse than anything else.

Then to find out you're getting garnished and you have to pay $11,000, which you don't -- which you don't have. Because for the apartment -- for the apartment that I just moved into, I had to pay like five grand just to move in. Then a month later I got laid off, found a job in December. Wasn't paying much, then I have a garnishment and $11,000 debt on my head.

Q. Now, the garnishment occurred before you were promoted to manager?

A. Of course. I was a stock boy, stocking shelves.

Q. And how did the stress affect you?

A. All right. This is -- everybody deals with stress in a different way. Me, I deal with -- this is how I deal with stress, I deal with stress like this: I bottle everything in -- inside.

First of all, when it comes to money, that's it, I completely shut down. I go with -- I get withdrawn, right. And I have a wife and I have kids, I don't say anything. My wife ask me what's up, I don't say anything. I come in from work, I don't say anything. I just stay there and I just bottle everything up on the inside.

The next thing that happens is my face becomes extremely hot -- it feels like it's getting hot. Not -- not by touching it; it just feels like there's fire. But that's me stressing. That's me stressing. Then the insides of my stomachs starts knotting up. I don't eat, don't sleep. All right? I become like, you know, depressed.

And this is days leading up -- this is trying to figure out where this

debt came from, then finding out that I had a debt of $11,000, and then the next thing figuring out how I'm going to get out of this. Plus, making the amount of money that I'm making at my job led to me stressing out and going into depression -- into depression.

Q. So you didn't tell your wife about it?

A. My wife knew. I didn't tell her like in the beginning. I didn't tell her about the stuff about me having -- you know, my friend telling me about the baby, some baby somewhere, but I told her about the other stuff.

Q. So did you have hives or you felt like hot like you had hives?

A. Well, after the -- after the heat -- after the heat -- the heat in my face, that feeling that I get in my face, that's what brings out the hives.

Look at -- you see this right here?

This is -- this is one of them

that never went away, right there (indicating). It's still on my face. Permanent mark. Hard like a knot. That's the one last remain there.

It wouldn't come up in one place. It would come up in a bunch of different places on my face. That's the last one and it's still there. It's just a reminder of what used to happen.

Q. And you never had hives before that day?

A. The last time I had hives before that day was when my brother was murdered in '98. In '98. That was the last time.

Q. So did you treat with any -- not in '98.

Did you treat with my health care providers in connection with the hives?

MR. KESHAVARZ: Objection to the form of the question.

You may answer.

THE WITNESS: I didn't think

the hives -- the hives wasn't really -- I knew why the hives happen, it's because I'm stressed. I knew why my stomach was turning into knots and why I wasn't eating, it was because of the stress.

BY MS. LASTORINO:

Q. Did you see any doctors about it, about the hives?

A. I didn't see any doctors about the hives.

Every six months I go see a doctor or a dentist. But to say that I'm going to see the doctor about the hives, no, I didn't see no doctor about the hives. I wouldn't even go talk to anybody about the issue I was dealing with. Again, like I said, I just bottle everything on the inside.

Not too many people do that. Some people go talk to other people. Some people go talk to their mom. Some people go ask for help. Not me, I just hold everything on the inside. I didn't know

Page 126

V. CALLENDER

how to deal with it. I just hold everything on the inside. And at that time it was a lot of weight for me. It was a whole lot of weight because of what I came from.

Moving in -- you just read it, I just told you all the moves, the moves, because I move from 408, rent an apartment. Was told that it was okay, it was safe and all that stuff, that we were going to be okay, and then months later we had to pack up and leave. Then I had to find another place.

Spoke to this woman and she told me everything is safe, this is my apartment. Yeah, it was her apartment, but she didn't speak to the board, and so now we had to find another place to live.

Moving from place to place. Then I find another place, and then to lose my job, all right, to lose my job that I was supporting my family, stress, it mounts and it mounts and it mounts and it mounts.

You know the next thing that

Page 127

V. CALLENDER

could have happened to me? Death. That's the next thing that comes, that's how serious this is, this type of stress that happens to me. You just die, aneurysm because I keep everything on the inside.

And talking about it right now, I'm feeling the same way. On the inside, I'm starting to knot up and my face is starting to get hot, just talking about it.

Q. When you're saying that that -- the stress of the apartment and all that, that was --

A. It's compounded. It all compound. Then when -- when you add to the fact that this $11,000, because I had an apartment, I had a place to live now. Right? I had a place to live. I was back in the rent just a little bit, but I was making -- I had a little job. And I know myself, I know if I have -- if I work, I can move to management because I know who I am. Right?

I'd rather start on the bottom sweeping up floors and I know I'll have the

Page 128

V. CALLENDER

director or manager's position in months. That's the way I -- I know myself. So I wasn't really worried about that. What I was worried about was who was taking my money.

Q. So the stress that you testified to about that apartment, that was before your Dollar Tree job?

A. No, no, no.

Okay. You asked me about the stress and you asked me about the hives, right?

Q. Yes. And then you mentioned the stress from that apartment situation.

A. Okay. Now --

Q. I'm just trying to figure out --

A. No, no, no. Don't try to switch things up.

Q. I'm not.

A. Listen to what I'm saying, listen to what I'm saying: All the moves, right, the movement and all that stuff had its own particular, you know -- you know,

Page 129

V. CALLENDER

stress involved. All right. But I had found a place, all right, that I could have my own. I signed the lease. I paid like five grand just to move in. All right.

Q. And when was that?

A. This was in 2014, I moved into Leggett.

Q. Okay. And that was --

A. And then a couple months later I lost the job, right. And then --

Q. I think I'm just not following you.

When you say you lost the job, are you talking about the United?

A. Yes, that's what I'm talking about, United.

Q. Okay.

A. So that's when I got laid off from United.

Q. Okay.

A. All right. So I was stressed out. And then I went and got another job. I'll take anything at this point because I have a family and I just dipped into the

Page 130

V. CALLENDER

savings to get this apartment. All right. So, yeah, I got the job and then two months -- a couple months later I'm being garnished. I mean . . .

Q. Do you recall the total amount that was garnished?

A. No, I don't remember the total amount.

What I remember seeing was my check was one way and then the next it was a different amount every -- the way that I was -- I was making my budget at the time, you know, it was helping out. But then I had to reconstruct like, you know, what I -- what I was getting now, and that wasn't fair.

And then when I found out how much money it was, then I started thinking like, man, if this -- if I really owe these people that amount of money, do you know how many years it's going to take me to pay this off? You know, all these type of things was going through my mind.

Q. Did you receive that money

Page 131

V. CALLENDER

back?

A. What money?

Q. The money that was garnished.

A. Yes. That's after -- after nights of staying up trying to figure out who was garnishing my money, that was after days of running around in the city going to lawyer's office to try to figure out who these people was, because I didn't -- I didn't know who it was.

Q. What lawyers did you speak to?

A. I went to -- what's it called? Urban Justice league [sic], that's where I went.

If it wasn't for the woman who helped me at the Urban, I don't -- I mean she was wonderful. Like in a couple of days she figured out this stuff because I couldn't do it myself. She figured it out.

Q. You testified earlier that you were depressed?

A. (Nods head.)

Q. Did you treat with any mental health care providers?

Page 132

V. CALLENDER

A. I don't --

Q. Do you know what I mean by that?

A. No, because I don't think it's a mental health. I think it had to do with me -- with me, with the issue I was faced with, a mental health provider wouldn't help me. The only way they would have been able to help me if they gave me $11,000 to get this problem away. I didn't think it was a mental issue. It was an issue of me finding out that I was being garnished and why was I being garnished. And there was no purpose in me being garnished because a couple years before, in 2012, I thought I cleaned everything up. And that shouldn't be being garnished because I cleaned everything up.

Q. Did you see any doctors, health care providers on the stomach issues that you testified about?

A. No, because I know what that's about. I already know what that's about. I know what my stress or how I deal with my

Page 133

V. CALLENDER

stress. And when it got to that point . . .

Q. So you knew what the issue was and you didn't need, in your opinion, to seek medical care?

MR. KESHAVARZ: Objection to the form of the question.

THE WITNESS: What do you mean, I knew what the issue was?

BY MS. LASTORINO:

Q. You testified that you understood why you were feeling the way that you were feeling, right?

A. Right.

Q. And is that why you didn't seek care of a health care provider, because you knew what your symptoms were about?

A. I knew -- I knew -- yes, because I was stressed because my money was being garnished and I didn't know who was garnishing my money.

Q. When is the last time you had hives?

A. I told you, when my brother had

Page 134

V. CALLENDER

passed.

Q. No, no, no.

Since 2000 --

A. Since after that?

Q. You got the hives in 2015, is that when --

When was it garnished?

How long after the garnishment did you get the hives?

A. Rephrase that question.

When -- how long, you said?

Q. How long after the garnishment did you get the hives?

A. It comes when the stress comes and then it goes when that type of stress goes away. That's how that works.

Q. I'm just trying to figure out a time frame.

You said before that --

A. I didn't -- I didn't look at my face every day wondering when the bumps going to go down. I never did that. All I was thinking at that time was this money.

Q. But was it a day after you

Page 135

V. CALLENDER

learned about the garnishment? Was it a week? A month?

I'm just trying to figure out a time frame.

A. When did it go away?

Q. No.

When did you first get them?

A. Oh. Like I explained to you in the beginning, it's different steps. Like I withdraw. I withdraw, right? Withdraw meaning, when I withdraw, that's me going inside to try to figure out the problems. People deal with problems different way, and so that's mental, right? So when the mind comes in play, the stomach comes in play, too, because I can't figure out how I'm going to get out this problem. Right?

So after that, I don't eat. And until I figure out the problem, I'm going to eat. But I was not eating because the problem still was there in my face staring me down. Then that causes -- since I can't deal with the problem, started getting headaches, then the heat in my face

Page 136

V. CALLENDER

started coming, and that's what brings out the hives.

Q. Yeah, I understand that you testified that way already.

A. Right.

Q. But what I'm trying to get at is the time frame, the month and the year as to when that started to happen.

A. I can't -- I can't tell you --

I mean it started at the day I found out -- when I saw the word "garnished" -- when I saw the word "garnished" and I asked my friend what -- and I typed -- I knew what garnished was, but I didn't believe it, it started at that time.

Q. Okay. And when is the last time you've had hives since that time?

A. Man, I haven't had hives since then.

Q. So they went away?

A. This one stayed. Maybe this one is waiting till this problem goes away, it will disappear, this one right here (indicating). It's hard now. Maybe that's

Page 137

V. CALLENDER

waiting for this to go away. Because every time I think about this, I get mad, I get upset on the inside, you know. That's how I get my knots in the stomach. I'm not getting hives on my face, but my stomach, though.

Q. And have you ever seen a dermatologist about what --

A. Yeah, I seen a dermatologist a couple years.

Q. When's the last time you saw a dermatologist?

A. I saw a dermatologist in 2001. That was a long time ago.

Q. Who was Dr. --

A. That has nothing to do with no dermatology.

Q. Who was Dr. Emmanuel Peprah?

A. That's my doctor.

Q. How long have you been --

A. I don't know. Maybe --

Q. -- seeing that doctor?

A. Maybe two years. I'm not sure.

Q. And what do you go to

Page 138

V. CALLENDER

Dr. Peprah for?

A. I go to doc -- you know, I don't go to a doctor. I only go to the doctor because -- because society says you need to go to a doctor and get a physical checkup or -- or go get your dentals. That's why I go to get a physical. That's why I go to the doctor, only because society says.

Q. So you just basically go for physicals, you're saying?

A. I go for physical, blood tests. Like I went to him to get a blood test to find out what blood type I was, just to find out what blood type, because I was reading a book that, you know, if you eat based on blood type, I was see if there was evidence that -- I was trying to prove his claim that was wrong, that was all.

MS. LASTORINO: I think I'm wrapping up, but I just want to go through and just . . .

BY MS. LASTORINO:

Q. Before your wages were

Page 139

V. CALLENDER

garnished, did you ever receive anything in the mail called an income execution?

A. No. And that's what upset me more also. That's what upset me more than anything else. Because I don't know if I read somewhere -- I don't know if I read somewhere where, if you're going to get garnished, they should send you a letter in the mail, and then I think you sign off on it, or something like that. I read it somewhere. And I was upset because I never saw anything and -- and that people have the power just to go into your stuff without letting you know and just take away your stuff.

I mean if I had done that, I mean I would be in jail right now, to tell you the truth. If I had done that to somebody else, if I had done that to a corporation, I would be in jail.

MS. LASTORINO: One second.

(Discussion off the record.)

MS. LASTORINO: I think I'm done.

Page 140

V. CALLENDER

THE WITNESS: Can I ask a question?

MR. KESHAVARZ: Unfortunately you don't get to ask questions.

Let's just take a quick break for one second.

(A brief recess was taken from 2:59 p.m. to 3:03 p.m.)

(Defendant's Exhibit L, a document, Bates stamped Callender 58 through Callender 65, was marked for identification.)

EXAMINATION BY MR. KESHAVARZ:

Q. Okay. Mr. Callender, I'm showing you what's been marked previously as Exhibit No. K.

Do you remember testifying you weren't sure about what this document was?

A. Yes, I remember that.

Q. Okay. Now that you look -- I'm showing you Exhibit L, which is Callender 58 --

A. Right.

Page 141

V. CALLENDER

Q. -- through 65.

A. Right.

Q. Now that you see Exhibit K in context --

A. Uh-huh.

Q. -- do you remember --

Well, let me just ask you this: Do you know what Exhibit L is, which is Callender --

A. Yes, I know what Exhibit L.

Q. Just wait a second.

Do you know what Exhibit L is, which is Callender 58 through 65? What is that?

A. Well, that's a document that I -- that I -- I was doing some research on the company Forster & Garbus because I wasn't really aware of who they were, and I found out like the Attorney General had sued them for gutter services and stuff back in '07. And so I copied -- I made copies of that of all the information that I found online, and this paperwork Exhibit K is part of that.

V. CALLENDER

MR. KESHAVARZ: Okay. That's all I have.

MS. LASTORINO: I have a question.

EXAMINATION BY

MS. LASTORINO:

Q. Do you have any reason to believe that your -- in your underlying action, I'm talking about the Discover Bank that sued you.

You understand what I'm saying, right?

A. (Nods head.)

Q. Do you have any understanding as to what law firm was representing Discover Bank when they commenced that lawsuit?

MR. KESHAVARZ: Objection to the form of the question.

You may answer, if you know.

THE WITNESS: I don't understand what you're saying.

BY MS. LASTORINO:

Q. Discover Bank sued you in the

V. CALLENDER

underlying action which resulted in the default judgement, correct?

A. Right.

Q. Okay. Do you know who was representing Discover Bank?

A. At the time I didn't know.

Q. But you served the Order to Show Cause to a law firm, right?

A. Right. That's when I found out.

Q. And that law firm, you didn't sent it to Forster & Garbus, did you?

A. I sent it to whatever letter I was getting in -- whatever that information where the address was on --

Q. Uh-huh.

A. -- that's where I sent it to.

Q. Okay. So whichever address you sent it, you sent it to the law firm other than Forster & Garbus?

MR. KESHAVARZ: Objection to the form of the question.

THE WITNESS: I don't know.

V. CALLENDER

BY MS. LASTORINO:

Q. Well, let me ask you: Did you send that Order to Show Cause? Where did you send it?

MR. KESHAVARZ: Objection to the form of the question.

You may answer, if you know.

THE WITNESS: This was in 2012, right?

BY MS. LASTORINO:

Q. Uh-huh.

A. I sent the letter -- the Order to Show Cause to whichever information -- it had a piece of paper that had the address that I was supposed to send this information to, that's where I sent it.

Q. Okay.

MS. LASTORINO: I have no other questions.

MR. KESHAVARZ: All right. We're free to go.

Can you e-mail me the exhibits or --

MS. LASTORINO: Sure.

V. CALLENDER

(Discussion off the record.)

MR. KESHAVARZ: I reserve the right to review and revise.

You can e-mail me a copy. I only need an e-tran.

(Time noted: 3:07 p.m.)

A C K N O W L E D G M E N T

I, VICTOR CALLENDER, hereby certify that I have read the transcript of my testimony taken under oath in my deposition of October 25, 2016, that the transcript is a true, complete and correct record of my what was asked, answered and said during the deposition, and that the answers on the record as given by me are true and correct.

____
VICTOR CALLENDER

Signed and Subscribed to before me this ______ day of ______________, 20___.

____
Notary Public, State of New York

I N D E X

WITNESS	EXAMINATION BY	PAGE
VICTOR CALLENDER	MS. LASTORINO	4
	MR. KESHAVARZ	140
	MS. LASTORINO	142

E X H I B I T

DEFENDANT'S	DESCRIPTION	PAGE
Exhibit A	Notice to Take Oral Deposition	4
Exhibit B	WebCivil Local Case Search Results, Bates stamped Callender 17	44
Exhibit C	WebCivil Local Case Detail	54
Exhibit D	a letter dated October 23, 2012, Bates stamped FG_000008 and FG_000010	69

E X H I B I T S

DEFENDANT'S	DESCRIPTION	PAGE
Exhibit E	Order to Show Cause and Affidavit in Support of Order to Show Cause, Bates stamped Callender 114 through Callender 115	87
Exhibit F	"Proposed" Written Answer Consumer Credit Transaction, Bates stamped Callender 116	88
Exhibit G	a compilation of letters	97
Exhibit H	a letter dated July 2, 2012, Bates stamped Callender 3	104
Exhibit I	a document, Bates stamped Callender 77	104

E X H I B I T S

DEFENDANT'S	DESCRIPTION	PAGE
Exhibit J	a letter with attached application, Bates stamped FG_000061	107
Exhibit K	a document, Bates stamped Callender 65	111
Exhibit L	a document, Bates stamped Callender 58 through Callender 65	140

(EXHIBITS RETAINED BY CAROL LASTORINO, ESQ.)

REQUESTS FOR DOCUMENTS

PAGE	LINE
84	13
100	25

C E R T I F I C A T I O N

I, Ashley Shugar, a Notary Public within and for the State of New York, do hereby certify:

That VICTOR CALLENDER, the witness whose deposition is herein before set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness.

I further certify that I am not related to any of the parties to this action by blood or marriage; and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of November, 2016.

____
ASHLEY SHUGAR

E R R A T A S H E E T

VERITEXT/NEW YORK REPORTING, LLC

CASE NAME: CALLENDER v. FORSTER & GARBUS

DATE OF DEPOSITION: OCTOBER 25, 2016

WITNESS: VICTOR CALLENDER

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VICTOR CALLENDER

Subscribed and Sworn to before me this______day of________________, 20__.

NOTARY PUBLIC______________________

MY COMMISSION EXPIRES__________________